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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/939,509	08/24/2001	Gregory P. Campau	1-23339	2340
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46582      7590      07/19/2006

MACMILLAN, SOBANSKI & TODD, LLC  
ONE MARITIME PLAZA - FOURTH FLOOR  
720 WATER STREET  
TOLEDO, OH 43604

EXAMINER
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SCHWARTZ, CHRISTOPHER P

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

<b>Application No.</b> 09/939,509	<b>Applicant(s)</b> CAMPAU ET AL.	
<b>Examiner</b> Christopher P. Schwartz	<b>Art Unit</b> 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 04 May 2006.
- 2a)  This action is **FINAL**.
- 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-20 and 22-47 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) 1-20, 23-36, 39 and 41 is/are allowed.
- 6)  Claim(s) 22, 36-38, 40, 42-47 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

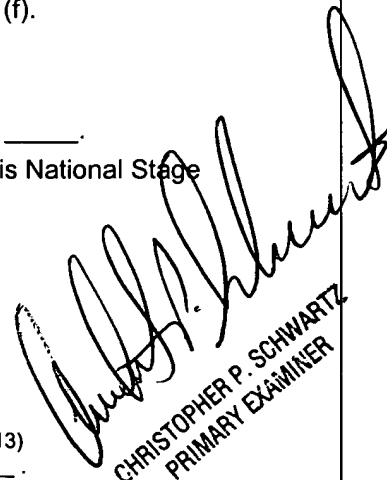
**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

  
CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER

### DETAILED ACTION

1. Applicant's response filed 5/4/06 has been received and considered.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 22,36-38,40,42-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Resch '099 in view of Leiber '514 and Steiner '730 or Steiner '713.

Regarding claims 22,36-38,40,42-47 Resch discloses a dual circuit brake system as readily apparent from the drawings. Resch discloses in column 17 lines 34-38 that the pump may be used as a "brake pressure source". Through regulation of the opening and closing times and pressures of the valves 106,138,142 it is readily

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apparent that the pump may in fact be used as the primary source for fluid pressure and the master cylinder as the auxiliary source.

Further, col. 17 lines 52+ Resch states "In the event the recirculating pump 127 is constructed as a self priming pump and a gradient present between the brake fluid reservoir 86 and the low pressure connection 136 of the recirculating pump 127 is sufficient for the operation of filling the pump chamber of the recirculating pump 127, an automatic triggering of the brake booster 17 is not necessary in order to execute automatically controlled braking on the rear axle...". Therefore, in the state of dynamics braking or ABS controlled braking the pump acts as the "normal source" for supplying fluid pressure and the master cylinder can act as the backup source.

Notwithstanding this argument the reference to Leiber '514 shows this more clearly and as discussed in column 3 around line 20.

The reference to Steiner '730 is relied upon for showing how the signals from the pedal sensor 71 and pressure sensor 76+ may be combined and evaluated "... in terms of the expected value of a brake pressure or of a brake force which the driver wishes to achieve..." i.e. via control of the brake valves. See the discussion in cols. 12 and col. 15. Applicant's limitations of "blend control" of the first and second signals are merely amount to an obvious equivalent to the multiple signal processing discussed in Steiner '730.

Note the separator units at 41-44 in Steiner '730 or at 24,26 in Steiner '713.

These units are considered to be an obvious alternative equivalent arrangement to the arrangement shown at 68 of Resch.

Because the brake systems of Resch and Steiner are so closely related the ordinary skilled worker in the art at the time of the invention would have found it obvious to have combined the teachings discussed above in such a way that they meet applicant's claimed limitations.

### ***Response to Arguments***

5. Applicant's arguments with respect to the above claims have been considered but are not persuasive. As broadly claimed (see claim 42 for example) applicants simply claim a normal source supplying a first fluid and a backup source supplying a second fluid. Dependent upon the braking state of the vehicle in Resch (normal vs. VDC), Resch alone could meet these limitations. Leiber '514 states in column 3 lines 21+ "The pump and the storage container represent the source of brake fluid pressure which is connected through a check valve 15 with a pressure chamber 16". Later, in column 3 around line 60 Leiber describes the displacement of the piston 14 through piston 10 (i.e. the master cylinder) should the source of fluid pressure (i.e. pump) become inoperative. Note also the function of switch 59 (col. 4 line 46).

Notwithstanding the argument above – that Leiber does indeed teach a system having a pump as the "normal source" of fluid pressure, as broadly claimed by applicant the "normal" source of fluid pressure may be interpreted as when the brake system of Resch is in fact in vehicle stability control mode.

### ***Conclusion***

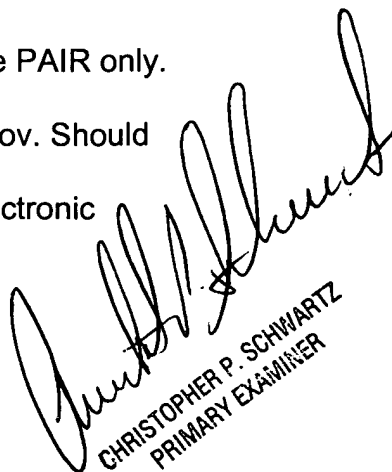
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 571-272-7123. The examiner can normally be reached on M-F 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim McClellan can be reached on 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER